

REMARKS

Claims 1, 4-6, 9 and 10 are pending and are rejected.

Claims 1 and 6 are amended to recite that the number of fragments is “2 to 9,” as supported at least at page 5, lines 17-18. Claims 1 and 6 have also been amended to recite that the protease-treated fragmented bovine serum albumin reduces non-specific reaction of the latex particles, as supported at least at page 3, lines 7 to 1 from the bottom.

Claim Rejections 35 U.S.C. § 112

Claims 1 and 6 are rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. The Examiner states that the language “consisting essentially of *about*” is unclear, because the specification does not define how many fragments amount to “about.” The Examiner suggests deleting the word “about.”

The rejection is overcome by deleting the word “about” as suggested by the Examiner.

Claim Rejections 35 U.S.C. § 103(a)

1. Claims 1, 4, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. (Int. Arch. Allergy, 36 354-375, 1969) in view of Dosa et al. (Immunology, 1979, 38, pages 509-517) and further in view of Scherr (US Patent #4,096,138), for reasons of record.

In response, Applicants reassert their prior position.

In particular, response to Applicants’ position that the rejection is overcome and/or traversed at least because Dosa et al. does not teach that fragmented BSA consisting of about 2 to 10 fragments is capable of preventing a non-specific reaction, the Examiner asserted that the argument was not found persuasive because the features upon which Applicant relies (i.e., capable of preventing a nonspecific reaction) are not recited in the rejected claim(s).

In this amendment, claims 1 and 6 have been amended to recite this characteristic of the invention.

Also in response to Applicants' position that Dosa et al. do not teach fragmented BSA consisting essentially of about 2 to 10 fragments, the Examiner stated that the argument was not found persuasive because Dosa et al. allegedly utilize the same fragmenting agent (pepsin) as the specification (Example 1).

In order to further distinguish over Dosa et al., claims 1 and 6 have been amended to recite that the number of fragments is "2 to 9."

In view of the amendments to claims 1 and 6, the Examiner is requested, respectfully, to reconsider and remove this rejection.

2. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. (Int. Arch. Allergy, 36 354-375, 1969) in view of Dosa et al. (Immunology, 1979, 38, pages 509-517) and further in view of Scherr (US Patent #4,096,138) as applied to claims 1, 4, 6, and 9 above, and further in view of Nakase et al. (JP 48019719 Abstract Only).

This rejection is overcome by distinguishing over the teachings of Dosa et al., as discussed above.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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